

*San Diego*

INTERNATIONAL  
LEGAL  
RESEARCH  
CENTER

1967





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Former Chairman,, Foreign Relations Committee, Korean Bar  
Association.*



*Directors of this Center at the inauguration with the President, Byong Ho Lee, in the center.*

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## **PROSPECTS OF THE INTERNATIONAL LEGAL RESEARCH CENTER**

A score of years has elapsed since the liberation of Korea. During this period, as we all are aware, Korea has made a tremendous progress, aiming at democracy, in the fields of administration and legislature in the face of all difficulties and vicissitudes. Moreover, not only those responsible for administration and legislature but also the whole nation have spared no efforts with profound interest to improve the systems and modernize the means of operation in those fields. However, in the case of judicature, which plays an important and indispensable role in a constitutional country to protect the freedom and rights of the people, no progress has been made as regards its judicial system and means of operation still remaining unchanged as under the Japanese rule. The public, indifferent to such a backward legal fields, has completely forgotten to improve the current judicial system. Even the authorities concerned responsible for the judicial affairs have failed to make a study of foreign systems which are undergoing changes everyday for rapid development. It goes without saying that, under such an old system, the people's right could hardly be protected, and we cannot stand the shame of having such an old system as compared with the extremely advanced scientific and effective judicial systems of foreign countries. Awaken to the super-urgent necessity of rectifying our current judicial system, we hereby establish the International Legal Research Center to mobilize scholars and the bench and bar to make researches in judicial systems and make public the result of such researches while conducting a drive for legal reform so that the Government may

ameliorate the existing ineffective system at the earliest possible to protect the rights of the people and adopt a new system reliable and estimable by the people, and to introduce foreign legal information and exchange jurists with foreign countries to the end that the true democratic system may be established in this country. On the other hand, people do not know the legal rights that they can claim against the government power. People not knowing these rights are afraid of the arbitrary power of government officials, specially the police power. Without having people know the legal rights and how to protect their rights, the creation of true democratic society can never be imagined. Therefore, our Center plans to concentrate whole energies for enlightening the people and let them know what are their fundamental and unalienable rights.

**CONSTITUTION OF THE ASSOCIATION**

**International Legal Research Center**

# INTERNATIONAL LEGAL RESEARCH CENTER

## ARTICLES OF ASSOCIATION

### Chapter I. General Provisions

#### Article 1.

This Center shall be called the International Legal Research Center of Korea.

#### Article 2.

This Center shall establish its office in the Special City of Seoul, Korea.

#### Article 3.

The purpose of this Center is to make inquiries and researches in both domestic and foreign problems and foreign juridical systems, to make public the results of such inquiries and researches, and to enlighten people on the legal knowledge.

#### Article 4.

This Center shall establish a Judicial Reform Committee, a Legal Information Exchange Committee, and a People's Enlightenment Committee within itself for successful accomplishment of its purpose.

The functions of the Judicial Reform Committee shall be:

- 1) To make inquiries and researches in domestic and foreign legal problems.
- 2) To make researches in the foreign juridical system and make

public the result of such researches.

- 3) To make proposals to the administration and the judicial authorities for the amelioration of the Korean juridical system.
- 4) To hold lectures and other events in order to enhance the spirit of observing law.

The functions of the Legal Information Exchange Committee shall be:

- 1) To invite foreign jurists to give lectures.
- 2) To dispatch Korean lawyers overseas under an exchange program.
- 3) To participate in various activities of international legal organizations.
- 4) To handle such other affairs as would serve the promotion of friendship with foreign lawyers.

The functions of People's Enlightenment Committee shall be:

- 1) To hold lectures on law and to issue publications in order to have the people recognize their fundamental rights.
- 2) To distribute the pamphlets issued by this Center to people free of charge in order to enlighten the people on the legal knowledge indispensable for their daily life.
- 3) To publish law books in order to enhance the legal culture of the people.

## **Chapter II. Membership**

### **Article 5.**

Persons eligible for membership shall be those who support the

purpose of this Center regardless of their nationalities.

#### Article 6.

Members of this Center shall be entitled to take part in the functions of this Center.

#### Article 7.

Any member of this Center who behaves in a manner contrary to the purpose of this Center or injurious to the dignity of other members shall be dismissed from membership by a decision of the Board of Directors.

### **Chapter III. General Assembly**

#### Article 8.

A General Assembly shall be composed of members of this Center.

#### Article 9.

Directors and auditors of this Center shall be elected by the General Assembly. General Assembly shall decide on the motions moved by the President of this Center, the one who proposed to convene the General Assembly or auditor.

#### Article 10.

The General Assembly shall be convened by the President every December. A special meeting of the General Assembly may be called when deemed necessary by the President or when requested by not less

than one-fifth of the members.

Article 11.

The quorum of the General Assembly shall be set at not less than one-fifth of the members duly seated and a decision shall be made upon consent of a majority of members in attendance.

#### **Chapter IV. Board of Directors and Secretariat**

Article 12.

A Board of Directors shall be formed of directors to implement the decisions made by the General Assembly as well as the important matters for successful accomplishment of the purpose of this Center.

Article 13.

A meeting of the Board of Directors shall be convened by the Chairman and the quorum of the meeting shall be a majority of the members duly seated. Decisions may be made upon consent of members present.

Article 14.

The Secretariat shall implement decisions made by the Board of Directors and other necessary matters.

#### **Chapter V. Officers**

Article 15.

This Center shall have the following officers:

- 1) President ..... 1
- 2) Vice President ..... 3
- 3) Directors ..... 20 or more  
     (Managing Directors ..... Some)
- 4) Auditors ..... 2
- 5) Counselors ..... Some
- 6) Advisors ..... Some

Article 16.

The Chairman of the Board of Directors shall serve as the President of the Center and the Vice Chairman as the Vice President. The Chairman shall be entitled to represent this Center and supervise the operation of the Center in accordance with the Articles of Association and decisions made by the General Assembly and the Board of Directors.

Article 17.

The tenure of directorship shall be three years.

Article 18.

Auditors shall inspect and examine the financial status and management of this Center. The tenure of auditorship shall be three years.

Article 19.

The Chief Secretary shall be appointed or dismissed by the President subject to approval of the Board of Directors. The Chief Secretary shall be required to fulfil his assigned duties under the direction of the president and control and supervise the subordinate personnel.



Article 20.

All office personnel except the Chief Secretary shall be appointed or dismissed by the authority of the President. The President, Vice President, Directors, Auditors, Counselors, and Advisor shall be honorary post and the emoluments for office personnel shall be subject to the decision of the Board of Directors.

## Chapter VI. Finance

Article 21.

Property of this Center shall be as follows:

- 1) Dues collected from members.
- 2) Government subsidies.
- 3) Donations from benevolent persons.
- 4) Donations from foreign governments, organizations and individuals.
- 5) Other miscellaneous incomes.

Article 22.

The property of this Center shall be managed by the Board of Directors. The fiscal year of this Center shall be the same as the calendar year. A budget for revenues and expenditures shall be compiled every year for approval by the General Assembly for implementation. A yearly statement of accounts for revenues and expenditures to approval of the Board of Directors of consent of three-fourth or shall be reported to the General Assembly every other year.

## Chapter VII. Supplementary Provisions

### Article 23.

Detailed regulations governing the operation of this Center shall be set by the President subject to approval of the Board of Directors.

### Article 24.

The inaugural General Assembly shall be substituted by the General meeting of initiators.

### Article 25.

Amendment to the Constitution of the Association shall be subject to approval of the Board of Directors on consent of three-fourth or more or the duly seated members on the moiton of one-fifth or more of the members seated.

**STAFF MEMBERS**

**International Legal Research Center**

## LIST OF DIRECTORS

### President:

Byong Ho, Lee (M.C.L. Southern Methodist University, U.S.A.  
Attorney at Law.  
Chairman, of Foreign Relations Committee,  
Korean Bar Association)

### Vice President:

Ton Kak, Suh (L.L.M. Southern Methodist University, U.S.A.  
S.J.D. Professor of Seoul National University)

Kwan Sook, Park (L.L.M. Southern Methodist University.  
Tokyo University, Japan.  
Dean of Law School, Yonse University)

Cheun Sik, Park (Ph. D. Tulane University, U.S.A.  
Judge of Seoul Civil District Court)

### Managing Directors:

Keun, Park (Ph. D. Pennsylvania University, U.S.A.  
Director of Bureau of International Relations,  
Ministry of Foreign Affairs)

Heung Woo, Nam (L.L.M. Seoul National University.  
Attorney at Law.  
Professor of Korea University)

Kyung Keun, Ha (Ph. D. Washington University.  
Director of Administrative Office, Cheung Ang  
University)

Dae Yong, Choi (Attorney at Law.  
President of Law Times)

Directors:

- Chin Woo, Cheung (Attorney at Law.  
Secretary of the President of Korea)
- Yeung Kyu, Kang (L.L.M. Seoul National University.  
Director of Bureau of Asia,  
Ministry of Foreign Affairs)
- Won Suh, Park (Attended Special Course of the Judge  
Advocate General's School, U.S. Army,  
Charlottesville, Virginia, U.S.A.  
Attorney at Law)
- Cheun Hi, Yoon (L.L.M. Seoul National University.  
Former Professor of Law School, S.N.U.)
- Yung Kwan, Choo (Editor of the Seoul Daily Newspaper)
- Joo Ho, Lee (Director of Oriental Press)
- Byong Soo, Han (M.A. Maxwell Graduate School for Citizen-  
ship and Public Affairs, Syracuse University,  
U.S.A. Chief of Administration Office,  
Administration Reformation Committee)
- Myung Yung, Lee (Editor, Kyung Hyang Daily Newspaper)
- Yong Hyun, Cheung (Director of Hapdong News Agency)
- Yun Bok, Koh (L.L.M. Seoul National University.  
Professor of Seoul National University)
- Yung Doo, Kim (L.L.M. Seoul National University.  
Specialist, Institute of Political & Economic  
Research, National Assembly)
- Sung Dae, Kim (Specialist of Judicial Committee,  
National Assembly)

- Ki Sun, Chang (Vice President, Marine Transportation Co.)  
Marine Transportation Co.)
- Yong Han, Kim (L.L.M. Hamburg University, West Germany.  
Professor of Keun Kook University)
- Joong Yong, Suh (Attorney at Law)
- Auditors:
- Sung Hyun, Lee (M.A. Manchester University, England.  
Professor of Keun Kook University)
- Won Chang, Koh (L.L.M. Seoul National University.  
Chief of International Organization Section,  
Ministry of Foreign Affairs)
- Duck Bin, Choi (L.L.M. Southern Methodist University, U.S.A.  
Attorney at Law)
- Won Yong, Oh (L.L.M. Southern Methodist University, U.S.A.  
Attorney at Law)
- Cheung Soon, Park (Judge of Seoul Appellate Court)
- Cheung Woo, Lee (Judge of Seoul Appellate Court)
- Byong Cho, Lee (Professor of Kukmin University)
- Dong Sub, Park (Ph. D. Minesota University, U.S.A.  
Professor of Graduate School of Administra-  
tion, Seoul National University)
- Sung Hyun, Han (Attorney at Law)
- Joon Soo, Kim (Chief Judge, Seoul Civil District Court)
- Sang Ik, Moon (L.L.M. George Washington University,  
U.S.A. Chief Public Prosecutor, Seoul District  
Prosecutor's Office)
- Jong Won, Lee (L.L.M. Seoul National University.)

- Chief Public Prosecutor, Seoul District Public  
Prosecutor's Office)
- Myung Nai, Cheung (L.L.M. Seoul National University.  
Public Prosecutor, Seoul District Public Pro-  
secutor's Office)
- Bong Keun, Kal (S.J.D. Bonn University, West Germany.  
Professor of Cheung Ang University)
- Chin Chul, Soh (Ph. D. Oklahoma University, U.S.A.  
Director, Diplomatic Research Institute)
- Jong Han, Choo (L.L.M. Tokyo University, Japan.  
Professor of Dong Kook University)
- Jong Kil, Choi (S.J.D. Köln University, West Germany.  
Professor of Seoul National University)
- Tae Suh, Park (Managing Director of Hankook Fertilizer Co.)
- Sung Chul, Chang (L.L.M. Seoul National University.  
Specialist of Korea Productivity Center)

### LIST OF COUNSELLORS

- Man Soo, Han (Chief Judge, Seoul Appellate Court)
- Kyu Dae, Cho (Senior Judge, Seoul Appellate Court)
- Hi Nam, Kim (Chief Judge, Seoul Civil District Court)
- Edwin J. Clapp (Legal Adviser to the United States Operations  
Mission in Korea)
- Robert A. Kinney (International Relations Officer, U.S. Govern-  
ment)
- G. E. Robert Meyer (Commercial Attache, American Embassy to  
Korea)

## LIST OF ADVISERS

- Oh Byong, Kwon (Minister of Justice)
- Byong Kook, Koh (Attorney at Law.  
Former Dean of Law School, Seoul National  
University)
- Soon Yup, Hong (Associate Justice of Supreme Court)
- Soon Won, Bang (Associate Justice of Supreme Court)
- Chi Keul, Kim (Associate Justice of Supreme Court)
- Nam Ok, Paik (Former Chairman of Judicial Committee,  
National Assembly)
- Bong Han, Kim (Chairman of Judicial Committee,  
National Assembly)
- Cheung Hyun, Bai (Former Acting Chief Justice of Supreme  
Court)
- Jae Ho, Koh (Former President of Korean Bar Association)
- Jik Soo, Shin (Prosecutor General)



## **ANALYSIS OF PROJECTS**

**International Legal Research Center**

During the 20 years since the liberation of Korea, no progress or improvement has been made in the organization and administration of our Judicature, which still remains unchanged as under the Japanese rule in Korea. Things are changing day by day throughout the world and all kinds of governmental systems in other advanced countries are also being developed scientifically in accordance with the changes. The Administration and the Legislature in Korea have been improved in all aspects one after another, keeping pace with the prevailing trend of the times, for modernization of systems and operation by ceaseless efforts of the authorities concerned in the face of various hardships and trials, arousing profound interest of the people.

In the field of the Judicature, however, both the authorities and the people have forgotten endeavors to improve the system and no attempt whatsoever has been made to rectify defects of the current system.

Why should Judicature alone remain unchanged, although it ought to play an important and indispensable role in this constitutional country to safeguard the freedom and rights of the people? How could the freedom and rights of the people be protected properly under such a conservative system of old days? It is because both the authorities and the people have been interested in nothing but the Legislature and the Administration because of the political turmoils and the sudden introduction of democracy into our country, in disregard of the improvement of judicial reform for the Judicature. We deplore that no heed is paid to the protection of personal rights due to the defect of the civil court and personal restraint systems even if the justice exists to protect the personal rights from the power of the Administration.

The people do not believe that everything is disposed of in accordance with the law in this constitutional country and the people have no much sense of duty to abide by the law. Such a tendency is attributable to the shortcomings of the existing judicial system. Awaken to this fact, we have finally perceived that it is the most urgent task to make thoroughgoing researches for improvement of the current system, while proposing proper measures to the authorities. We must point out that it is due to the lack of confidence in judicial officers and the court system that the people are inclined not to abide by the law. Such a deplorable inclination is caused by the sheer nonsense created from the shortcomings of the current judicial system and its backwardness which is injurious to the prestige of a constitutional country. This being the case, it is urgently necessary to take some fundamental measures to rectify all such shortcomings for improvement in future.

1) Above all, a drastic increase in remuneration is necessary for judicial officers to retain their positions and prestige as their functions are held in high esteem. In any country in the world, special consideration is given constantly to remuneration for judicial officers. Only when they are paid enough not to worry about their living, they could relinquish all worldly thoughts to devote themselves to their important missions, thereby the people would place confidence in the law and judicial officers without being misled by swindlers. Currently, people tend to believe that money rules anything whether it is a criminal case or a civil case. The people are estranged from judges by those vicious brokers who are misleading the people as if anything could be favorably settled only when judges and prosecutors are bribed off. As a result of this the people have come to distrust the law.

All such disgraceful things have happened due to the insufficient scales of remuneration for judges. To uphold the prestige of our constitutional country, a drastic increase in remuneration for judges is necessary before anything else. Such a small increase at the time of compilation of annual budget would be of no help. The only way to settle the current problems is to set an independent budget for the court so that the court may be able to pay enough to judges. In a foreign country, it is considered to be the most unfortunate to be a politician and a politician would gain nothing but poverty after all if he carries on a political life for a long period of time, while in our society, politicians are considered to have the most dignified and honored profession. This also proves our system to be improper. We must rectify our current system for only the most respectable persons to be appointed as judges so that judgeship may become the envy of the people and we must take measures to prevent judges from leaving their positions due to living difficulties as present.

2) What we need next is a system to nationalize or popularize the law. In our country, the law is considered to exist not for the benefit of the people. In fact, the law is something the people are afraid of in this country. This being the case, we must make the people place confidence in the law. The people should be properly guided to appeal to the law for anything for settlement by the law to recover their rights. The average number of attorneys in other countries is one to several hundreds of people, but that in Korea is one to tens of thousands, yet attorneys in Korea have difficulties in maintaining their business due to paucity of income. In France and other advanced countries, for example, the number of women attorneys is almost same

as that of men attorneys. Even in Free China there are, at present time, as many as 50 women attorneys and 40 women judges as compared with only one women attorney in Korea. A large number of attorneys in a country proves that many of its people consult with attorneys to have their problems settled in accordance with the law. In our country, however, people do not use attorneys as much as people in other countries. There are many reasons for this. The first reason is that the people do not believe cases are disposed of by the law.

In the case of a criminal case, people do not even attempt to have it settled by the law through an attorney, misled by such a sheer nonsense saying that it should be settled by the power of a high ranking official or the parties to the case must negotiate directly with the authorities concerned. Even in the case of suit which ought to be handled by a civil court, people try to have it disposed of as a criminal case inasmuch as a civil suit takes a longer time than a criminal case for settlement. Such an attempt, however, is in vain and the parties to the case fail to recover their rights only to benefit of no one but brokers. We could never make the people to have a desire to abide by the law without making them believe all cases are disposed of in accordance with law. Another reason is the current system of judicial examination for the recruitment of judges and lawyers. The number of judges and lawyers are seriously restricted by this system.

The more people pass the examination, the better it will be for the country. In other countries, even the Administration employs a large number of lawyers, and a great many lawyers are recruited every year to guide the people. Such a good-for-nothing old fashioned system of judicial examination should be abolished in a democratic country. As

in other countries, 80 to 90 per cent of law school graduates ought to pass examinations. It is utter nonsense that the Government is limiting the number of successful candidates in the judicial examination, even while it is suffering from the shortage of judge-advocates in the armed forces of Korea. We could qualify a large number of lawyers to select better ones among from them as judges so that judges will no longer have a bureaucratic sense of their arbitrary superiority to the people. This would result in employing discreet and experienced lawyers with the age of 30 or more as judges, so as to clear away such a tendency for the people to distrust young judges in their twenties.

3) It is necessary to set aright the inefficient court organization which is causing delay and inaccuracy in the disposition of cases. With an increase in cases, judges are required to handle a tremendous number of cases. For example, one Justice of the Supreme Court is required to pass judgements on eight to ten cases a week, while a lower court judge is required to give decision on seven to eight cases in case of civil cases and more than 20 cases in case of criminal per week. However hard judges may work, they could do only a limited volume of work as a human being is limited in energy and wisdom. Therefore, it is difficult to give accurate judgement on a case in a limited time. Judges must be given ample time to study changes taking place every day and must make researches in judicial precedents (case laws) of the advanced countries. All judges in Korea, whether in a district court or Supreme Court, are required to handle all sorts of cases without being assigned to their own specialized fields. In fact, Justices of the Supreme Court have complaints in this respect. How could one judge be well versed in all fields of laws? In our country, judges have no

choice but to pass judgement on a case without making enough study of the case. How horrible it would be if a judge gives completely wrong decision in a trial which decides on the property and lives of the people. What if a person who is to win a case according to advanced theory of law loses the case according to the conservative formal logic? For these reasons, judges should make a special study of cases and swiftly dispose of those special cases important in the current days. In other countries, there are Special Courts beside the general courts. In the United States, for example, is a Tax Court, and in Europe are Constitution Courts, Labor Courts and Administration Courts. Sweden has a Water Right Court as a special court since there are so many water supply disputes in that country. In those countries which have no such independent special courts, their district courts have various special divisions such as the Labor Division, Housing Division, etc., in accordance with their own needs.

In Germany, there are a total of eight Supreme Courts including Civil, Criminal, Administration, Labor, Patent, Constitution, Social Security, Tax supreme, courts. In the case of those countries which have no such independent supreme courts classified by functions, their supreme courts are divided into various divisions including civil, criminal and administration divisions, for division of work by speciality. All these prove that supreme courts in other countries, having a thorough knowledge of various professional fields, try cases with great prudence and dispose of cases classifying them scientifically. In these countries, people place confidence in their courts. Such systems encourage the people to abide by the law.

4) Judges and prosecutors ought to make decision with a high

degree of confidence, justice and impartiality in determining the fact of a case and in its exercise of discretion. This also requires ample time to make proper and enough study of the case, as well as generosity and philanthropy of judges. Therefore, judges are required to cultivate their mind and spare no efforts. Meanwhile, lawyers must also make ceaseless efforts to improve themselves.

5) The entire bench and bar, in complete harmony and unity, must make a study of foreign judicial systems, theory of law and judicial precedents for the development of the judicature and must participate in international legal organizations and conferences for international cooperation to swim with the current of the times and for contribution to the peace of the world as well. It is also necessary to invite prominent foreign jurists to give lectures to professional lawyers, judges, and prosecutors. It has taken more than a thousand years for foreign countries to adopt their systems of today. We have to make tremendous efforts to catch up with those advanced countries within a short period of time, yet we have made no particular efforts during the past 20 years since the liberation of our country. Many countries even have a law protecting not only the human rights but also animals rights. In a civilized country, even the death penalty has been abolished. Our country should follow after such countries in regards to general criminal offenses except for the offenses against national security. This will be the only way to be called a civilized country in this world.

6) Today, there are no civilized countries but has a social security system. Without a security system, it is difficult to expect the stabilization of national life and prevent crimes. The better the social security system of a country is, the better the people abide by the law.



7) "Omubudsman", which is called "people's attorney" and conducts investigation at the appeal of the people, is selected by the Parliament as an organization disposing of matters at the request of people. This is a powerful organization which is entrusted with the authority to investigate various cases at the request of people and directly indict cases to the court. This is a characteristic system implemented in Scandinavian countries, but New Zealand and West Germany have also adopted that system. The United Kingdom has taken step to adopt it, and the United States are also making a study of the system. It is necessary to make a study of that system in our country also, because it would be indispensable in a democratic country to prevent Government officials from infringing upon the personal rights.

8) The "client security system" is currently implemented in Europe and the United States to strengthen the responsibility of attorneys for the benefit of the public. Under this system, in case anyone fails to receive the money payable by an attorney, the Bar Association directly compensates the victim for the loss when requested by the victim. This system is necessary to make attorneys fulfil their social responsibilities.

9) Especially today, when attorneys are not always cooperative with the Bar Association, the latter, facing a financial difficulty, exists in name only. This being the case, it is necessary to vest the Association with powerful authority to have attorneys participate in the Association activities. The Bar Associations of foreign countries are enforcing strict discipline for strict observance of attorney's ethics. They all have strict regulations limiting the qualifications of attorneys for representing at the Supreme Court and prohibiting practice in case of failure to pay dues to the Association. We must follow this system.

In the case of foreign countries, the sole purpose of the Bar Association organized pursuant to a law is to ensure the discipline of its members in a spontaneous manner, and for the enhancement of the social position and welfare of lawyers, there are a number of voluntary associations. In fact, our Bar Association is unique in the world in that, although it is organized in accordance with a law, it lacks the authority to mete out disciplinary actions against its members as the authority is vested with the Minister of Justice. This is tantamount to the negation of the *raison d'être* of our Bar Association. It makes the Bar Association an incompetent, nominal organization, and it must be corrected as soon as possible.

10) Our judicature is little interested, it appears, in the study of advanced legal system of foreign countries; but, rather, is determined to oppose anything foreign by pursuing a sort of isolation policy. The judicature is of the opinion that it need not attend any international parley on law. This is, indeed, without precedence in the world; and we are inclined to urge that the judicature do away with such near-sighted, reckless tendency for sound development.

It is absolutely necessary to have judicature study and make of researches into foreign legal system and precedences so as to help enhance the quality of judges, prosecutors and attorneys. It is also necessary to invite noted foreign scholars on jurisprudence and sponsor lecture meetings on law. We should incessantly promote cultural exchange with international legal organizations and actively participate in international parleys on jurisprudence.

11) We plan to publish bulletin "Monthly Review" free of charge for the people, which will introduce understanding of basic

laws of the country as well as advanced laws and democratic systems of foreign countries. Thus, our Center plans to take initiative in the nation-wide movement on reforming the judicature and on cleaning the atmosphere of judicature. To pursue this objective, it is also necessary to have some kind of lectures or others to enlighten the people. Especially it is imperative to have the student of the universities participate in this movement, and the annual oratorical contest of the university students shall be held under the auspices of our Center on the subject "Enlightenment of Spirit of Obeying Laws".

12) It is a great difference between our country and the advanced countries in the feature of criminology that the most of the crimes of our countries come from the poverty. Therefore it goes without saying that the social security system is absolutely necessary. As President Franklin, D. Roosevelt said, there should not be a forgotten person in our society. As an urgent measure for the social security system it is firstly needed to create an organization which will take charge of the guidance of the poverty-stricken juveniles. Before putting the juvenile delinquents into the juvenile reformatory without considering any of their hard environments, they should be guided and treated under the care of the organization to be entitled "Children's Welfare Committee", which may also raise a social movement on the enhancement of humanism. Another urgent task is to set up "Mother's Aid Committee" which runs mother's home whose purpose is to help the poor mothers, specially the mother without legal marriage. Even in other countries in the old days, when the girls have the babies without marriage, they were forced to commit suicide. Nowadays such a mothers are under the tender care of the society.

13) To set up Conciliation Council is necessary too. We suggest that the Conciliation Council be set up in each community, to settle the civil dispute before going into legal suit in the court. The conciliation is the proper and reasonable method to settle the dispute. The reasons are as follows. Firstly, the testimonies of the witnesses are so frivolous and diverse that the judges, not being God, have no way to know the truth. Consequently it is probable that the determination of the fact may be different from the truth. Secondly, the case being decided in accordance with the law at the time when the case happened, the judgment can not always be secured, because the laws are changeable or the precedents can be overruled subsequently. Thirdly, laws are not all in our society. Laws do not cover all the events of the society, the decision of the court may be set forth contrary to the common sense and beyond common understanding and the losing party may lose completely all the properties.

For these reasons, it is beneficial to both parties to settle the case through "Conciliation Committee" which is composed of laymen who have sound common sense. In other countries, we see that more than a third of all the cases are being settled through conciliation. Should the cases be settled in such a way, the judges are relieved of tremendous burden of the cases. On the other hand, the parties without means may have recourse to such a conciliation.

14) We should improve the prison system. It is the common principle that the purpose of the prison is to educate the prisoners, but not to give them painful punishment. Therefore, the human right of the prisoners should not be overlooked only because of their status of prisoners. It is advisable that as in advanced countries the community

should employ the social workers or priests working for the prison who will make psychological study of the prisoners and discuss with them for the purpose of educating them.

The treatment of the prisoners should be based on the humanism. We see that in an advanced system of other countries, the food and the rooms in the prison are not worse than those in ordinary house. After the certain period of time the prisoners are allowed to visit their families and even allowed sexual intercourse with their wives, aiming at keeping continuous relation with the families and the societies.

15) In the field of protection of women the most urgent thing to do is the legislation in regard to the wife's right to the property established during the marriage in case of divorce. This moment we don't have such a legislation so that the wife can only be deserted, not being entitled to any property of the husband even though she made tremendous contribution to the property for decades. Even in Japan the wives are entitled to such a right.

Another important legislation for the purpose is to compel the husband to obey the decision of the family court. In case of failure to pay the alimony or support the children and wife in accordance with the decision of the court, there must be a law to treat the husband criminally by the concept of contempt of court like in the U.S.A. Just ordering the husband to support wife or children is meaningless if there is no compulsory measure to the husband.

16) To relieve the judges of the overburden of the work due to the shortage of judges in the District Court and to speed up the disposition of the minor cases, the Justice of Peace (County Court Judge) system should be established under the present District Court which will

have jurisdiction over cases civil or criminal. Minor cases shall be settled through simple proceeding not going into complex proceeding in the District Court. Thus, the minor cases may be settled at Justice of Peace where as the other major cases must firstly go through the Conciliation Committee before taken an action to the District Court.

17) Legislation is necessary for the registration of real property to be given the public power (*foi publique*) so that the registration demonstrates the substantial right of the property, aiming at the protection of safety of dealing. Under the present law, the registered person as owner is not always the owner of real right, and sometimes illegal registration can exist. To prevent those defect, as in Germany the officials of Registry Office may be given the power of substantial examination. So whenever the registration is to be made, they may examine the legal right of the parties and sometimes, if necessary, will survey the land in order that the registration may meet the real right. This is a important law, though it may require tremendous expense, when we consider the fact that most of the disputes about real property is being caused by the present law under which the Registration is not correct and it has no public power (*foi publique*).

18) At the present law schools of Korea, the student can not afford to make approach to the other subjects except to only a few subjects which are requisite for the judicial examination in the hope that someday he might be one of the lucky few to pass it. But, actually speaking, this examination can not be esteemed as idealistic one, rather futile in a sense, because it only demands the student's excellent recitation of the codes and the principles of the few requisite subjects for the examination. The judges who judge the lives and properties of the

people should make a thorough-going study of not only legal subjects but also of literature, philosophy, sociology, economy, psychology, logic, so that they may obtain profound and vast culture as in the advanced countries. In order to pursue this purpose, it is suggested that the present four-year law school system should be reformed as six-year course like the medical schools in Korea. This will enable the students make a study freely and devote themselves to the class subjects and almost all the students who studied earnestly at the class may be ameliorated as aforesaid. This concurrently requires the consolidation of the present law schools which are low qualified in its professors and students.

19) The procedures of auction (compulsory or arbitrary) are so complicated that it takes too much time to get through. In other words, it not only takes several years that the creditor receives his shares after the creditor seizes the debtor's properties by decision of court and the procedures of auction are completed, but also the debtor unfairly loses his properties as the properties are knocked down by auction less than one tenth of the current prices for the concerned real estates.

For correcting such an unfairness, all the successful bidders of auction should be replaced by the State (i.e. to be vested to the State) and then the prices for the object to be knocked down should also be paid reasonably by the State for the debtor and later the object of an auction should be disposed gradually by public sale for the protection of the value of the needy debtor's properties.

Such a disposition can not only give the people their security of life, but also promote their conviction of law.





## **SPECIFICATION OF PROJECTS**

**International Legal Research Center**

# I. The Research and the Reformation of Korean Legal System

## (1) *Necessity*

It is not only that either continental law or Anglo-American law has its own merits, but also each has developed its scientific legal systems for the purpose of the scientifically perfect and prompt disposal of the cases for the sake of the complete protection of its people.

On the contrary, our legal system is the one just inherited directly from the Japanese domination and there have been no sign of development. What is worse is that the government and its people do not even recognize the need for the reformation of our legal system.

It is, moreover, a deplorable fact that the judicial authority which judges our lives and properties have been almost neglected by the government and its people.

It is, therefore, our intention to draw the attentions of the government and its people to the active study and publication of the need for reformation of our legal system. Before emphasizing people's respect for laws, the judicial authority must possess its own perfect system and should have fair operation of laws and give prompt and perfect judgements and execution of laws.

Since we have already made the Status of Forces Agreement covering the legal status of the U.S. soldiers stationed in Korea with U.S.A., it is not only our benefit but also our international duty to develop our law and legal system on the same bases with the other foreign nations.

It is entirely due to the defects of the judicial system that the people do not trust the law and its judgements. The only way to

eliminate this people's distrust is the reformation of the laws for the protection of their welfare.

Accordingly, to achieve this goal, the first thing to do is the research of the legal systems of the other foreign nations and the research of legal problems inside and outside of this nation.

## (2) *Methods*

First of all, we will purchase the law books inside and outside of this country, for our research and inquiries.

Secondly, we will establish research chairs with the scholars of laws invited from inside and outside of this country.

Thirdly, we will set up a standing system of laboratory workers consisting of 3 to 5 law-trained persons, and let them research hard and pay them some amount of money for their research and their subsistence.

Fourthly, we will dispatch these laboratory workers overseas and have them observe and study the latest foreign legal systems.

## (3) *Publication*

Firstly, we will make public the results of our research in the special lecture and in the meeting for discussion.

Secondly, we will publish the results of our research in the weekly or monthly magazines published regularly by us.

Thirdly, we will popularize the results of our research by means of newspapers and other mass media.

## II. International Exchange of Legal Culture

### (1) *Necessity*

The present situation indicates that the judges, the prosecutors, the attorneys at law and other legal experts in our judiciary do not even try to make any inquiry into the foreign legal systems and their progressed laws with a large-scaled vision. It is really out of sense that the judicial officers responsible for judging the people's lives and properties gives the judgement without enough research into the advanced legal theories and the judicial precedents.

Even the supreme court which gives the final judgement does not have the time to spare for the research into the foreign judicial precedents and laws and, moreover, do not make any effort for the purpose. They adopt a kind of a near-sighted policy which is likely to deem everything foreign as unnecessary one.

Accordingly, they are not allowed to have the chances to participate in any international conference meetings for the purpose of the exchange of legal culture and the increase of mutual understandings between jurists of every nations.

Such a near-sighted policy not only keeps the qualifications of the judges and the prosecutors from improvement, but also hinders the disposal of the cases from the accurate and fair judgement.

It is surprising to imagine that to give the out-of-date judgement according to the conservative legal theories in this super-developed world means a horrible threat to the lives and properties of the people.

Therefore it is our sincere aspiration to exchange legal experts between inside or outside of this country for the purpose of the safe-

guard of the natural rights of the people and the improvement of the qualifications of our judges, prosecutors, and the attorneys at law, and to invite the famous professors of other nations for discussion aiming at the world peace by consolidating the international relationship.

## (2) *Methods*

Firstly, we will invite one to three expert scholars of laws majored in their own subjects from abroad and provide their lectures on law for the professional judges, prosecutors, and lawyers for two months annually.

Secondly, we will select one to three men among the famous professional judges, prosecutors, and lawyers within our country and dispatch them overseas in order to let them study their majored subjects further.

## (3) *Lectures and Publications*

Firstly, we will provide the lectures on laws for legal experts and students of laws.

Secondly, we will provide the special lectures and meetings for discussion to hear the results of the research from those who returned home on the completion of their research in the foreign countries.

Thirdly, we will publish the results of our research in the weekly or monthly magazines.

# III. Legal Enlightenment for the People

## (1) *Necessity*

Today, our laws seem to be accredited only to the judicial officers as

their exclusive and aristocratic possession and the laws are esteemed as the things to be afraid of rather than the things to be relied on by people because of their alienation from the people.

The reasons for this derives from the extremely limited judicial examination which allows very a small number of persons to pass it and causes them to assume aristocratic existences, and from the lack of popularization of laws, and then from the incapability of people to make use of their given rights because of their ignorance of laws.

The history of human rights in the other advanced nations had seen the bloodshed over a decade of centuries but our struggle for human right in the past history were almost absent in our recorded time.

Our people do not recognize the importance of laws and do not even bother to know. The people can not exercise their rights given by laws if they are not familiar with the laws. It is often that the people are harmed by the loss of favor of laws because most of them observe their ancient customs, which conflict with the present written code of laws.

The people, for the deplorable examples, must be advised that, according to the Korean law, the ownership of real estate can not be secured simply by the purchasing action unless one has observed the law of registration of transfer of ownership. Not being familiar even with such a simple law, they are suffering from the loss of the purchased real estate as it has been the frequent cases that the seller, after having sold the property to first buyer, taking the advantage of the buyer's negligence in the registration, sells the same property to the second buyer and have the second buyer register it swiftly. And, unless the marriage is registered in the concerned authority, the bride can not

claim her right as a legal wife such as the right for inheritance of property.

In our country one must be familiar at least with some knowledge of laws concerned directly with one's daily life since the liability of change of laws always exists in this country.

The ignorance of laws and legal systems lead the people to the temptation of vicious brokers who persuade them to offer their money to them in the excuse of bribing off the judges and prosecutors forgetting there are lawyers whose task is to safeguard their human rights. But the vicious brokers appropriate the money for their own use.

The attitude of the judges and the prosecutors and legal system itself should be reformed for the fair operation of laws, and, furthermore, the reformation of judicature can not be achieved without the people's recognition of the fair operation of laws and the legal system. It is beyond saying that the enlightenment of the people would be the essence for the construction of democracy.

All of us are aware that the fate of a nation depends upon the enlightenment of its people. The Communist China is indebted to the illiteracy of its people for its leadership.

Dr. Yen in China, who was deeply moved by the illiteracy of its people, started the enlightenment movement for its people with an educational center in a certain place where he educated several important members and dispatched them to every corner of the nation for the purpose of educating its people and, again, the persons educated by these members were persuaded to set up other educational centers for the enlightenment movement for the people. This movement gradually infiltrated into deeply among the people.

It is a general opinion that the China would not have been communist nation if this movement had started 10 years earlier.

It is our original intention to convene the representatives from each provinces and educate them for the awakening of the importance of laws and the proclamation of human rights under the cooperation with 4 H Clubs every year and let the educated representative exert themselves for the sake of the people's enlightenment through the subsidiary organizations. We also aim at people's recognition of the importance of legal knowledge by letting them read the pamphlet recorded the comprehensive interpretations of laws published by our organization.

## (2) *The Particulars needed for the Enlightenment*

Firstly, the legal problems required for people's daily and social life and the newly enacted laws and regulations will be interpreted in details with examples for the enlightenment of the people.

Secondly, the expert scholars of law who are majoring in their particular subjects will be given a subject needed for the enlightenment in the expectation of the concise interpretation of their results of research and those scholars will be offered the fair payment for their manuscript by the International Legal Research Center.

## (3) *The Methods of Propagation*

Firstly, we will publish regular monthly reviews and distribute them to people free.

Secondly, we will start the enlightenment movement through 4 H Club.



Thirdly, we will consolidate the relationship between the International Legal Research Center and 4 H Clubs working in every district for the continuous progress of our enlightenment movement.

#### **IV. The Free Legal Service**

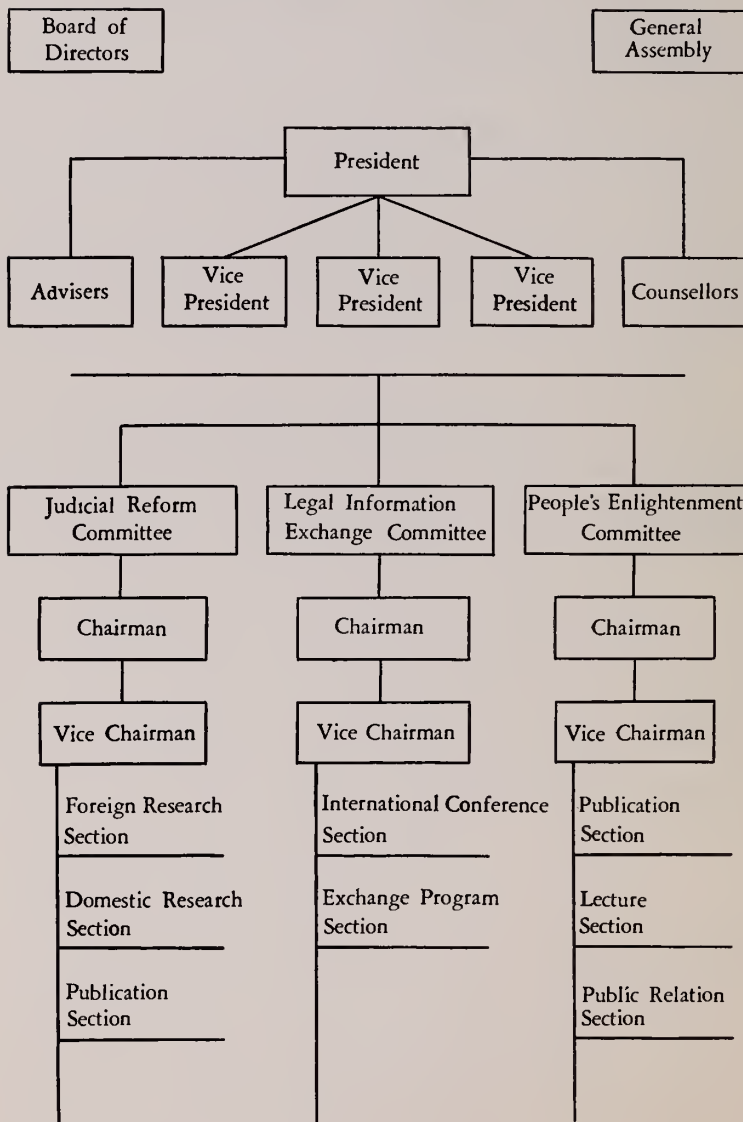
##### (1) *The Necessity*

We will gladly be the counsellors and the instructors to advise the powerless and poor people who can not afford the lawyer's fee about the means and schemes of how to protect their human rights, their economical benefits and many other legal interests without asking for any charge.

##### (2) *The Methods*

We will provide more than two standing-legal counsellors always ready to meet the legal problems of the people such as human rights and others.

## International Legal Research Center



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